



W.P.(MD) No.5266 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.02.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

AND

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.5266 of 2025

and

W.M.P.(MD)Nos.3870 & 3871 of 2025

S.Thiraviyam

... Petitioner

-Vs-

1.The District Collector,
Theni District, Theni.

2.The Revenue Divisional Officer,
Uthamapalayam, Theni District.

3.The Assistant Director of Panchayat,
Theni Region, Theni District.

4.The Tahsildhar,
Bodinayakkanur Taluk,
Theni District.

5.The Executive Officer,
Bodinayakkanur Town Panchayat,
Theni District.

6.The Executive Officer,
Boothipuram Town Panchayat,
Theni District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 6th respondent in Na.Ka.No. 189/2024 dated 21.02.2025 in respect of New Survey No.335/11, Old Survey No.551/14, Ramakaran Street, (Kamatchi Nadar Street) Boothipuram Town Panchayat, Bodinayakkanur Talk, Theni District quash the same and consequently direct the respondents to remove the wrong entry as “street” in the revenue records and issue patta in the name of the petitioners.

For Petitioner : Mr.S.Srikanth
For Respondents : Mr.S.S.Madhavan
Additional Government Pleader

ORDER

[Order of the Court was made by *J.NISHA BANU, J.*]

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.Challenging the eviction notice issued by the 6th respondent dated 21.02.2025 and seeking for a consequential relief to remove the wrong entry in the revenue records and issue patta in the name of the petitioners, the petitioner has filed this Writ Petition.



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3.The learned counsel appearing for the petitioner would submit that the petitioner has purchased the property in New Survey No.335/11, Old Survey No. 551/14, Ramakaran Street, Boothipuram Town Panchayat, Bodinayakanur Taluk, Theni District to an extent of 16 cents by way of a registered sale deed. Thereafter, a portion of property was sold to some third party. In the remaining property, from the date of purchase, the petitioner is in possession and enjoyment of the same. While being so, the sixth respondent has issued the impugned notice under Section 128 (1) (2) of the Tamil Nadu Urban Local Bodies Act, 1998 (hereinafter referred to as 'the Act'), directing the petitioner to remove the encroachment made by him within a period of 7 days.

4.He would further submit that before directing removal of encroachment, a show cause notice has to be issued under Section 128 of the Act. In the present case, the 6th respondent has issued the notice under Section 128 (1) (2) of the Act. Therefore, the same is liable to be quashed.

5.Mr.S.S.Madhavan, learned Additional Government Pleader, who takes notice for the respondents, would submit that the present impugned notice may be treated as show cause notice, for which, the petitioner may give his explanation and on receipt of the same, necessary orders would be passed.



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6. In view of the above, the impugned eviction notice dated 21.02.2025 is treated as show cause notice and the petitioner is directed to submit his explanation / objection to the same, enclosing all the relevant materials to substantiate his claim within a period of three weeks from the date of receipt of a copy of this order. On receipt of such explanation / objection, the authority concerned is directed to consider the same and pass appropriate orders on merits and in accordance with law, after affording sufficient opportunity to all the parties concerned within a period of four weeks thereafter. If there is any encroachment in the place in question, the same shall be removed by the authority concerned by following due process of law.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] & [S.S.Y., J.]
26.02.2025

NCC : Yes / No
Index : Yes / No

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